

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RYAN O. WALTERS,)	
)	
Petitioner,)	
)	Civil Action No. 10-090J
v.)	Judge Gibson
)	Magistrate Judge Bissoon
COMMONWEALTH of)	
PENNSYLVANIA, and)	
IMMIGRATION and CUSTOM)	
ENFORCEMENT)	
)	
Respondents.)	

ORDER

Petitioner Ryan O. Walters (“Petitioner”), a/k/a Carl O. Thomas, is a detainee of Immigration and Customs Enforcement (“ICE”), and currently is confined at York County Prison in York, Pennsylvania. Petitioner filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2254, collaterally attacking criminal convictions from 2006. These convictions have led to Petitioner being ordered removed from the United States by an Immigration Judge. See (Doc. 82) ¶ 12. The Commonwealth of Pennsylvania was served on June 4, 2010, and responded on October 8, 2010. To date, there is no record in the docket that ICE has been served.

Before this Court is Petitioner’s Motion for Emergency Stay of Execution Pending Resolution and or Outcome of Court Proceedings (Doc. 83), in which Petitioner moves this Court to stay the order of removal against him, pending the outcome of the instant petition. As was related to Petitioner in the order transferring this petition to the Western District of Pennsylvania, Congress has stripped the district courts of subject matter jurisdiction to stay orders of removal. See 8 U.S.C. § 1252(a)(5); see also Scott v. Napolitano, 618 F.Supp.2d 186,

191 (E.D.N.Y. 2009). The only lawful sources of stays of removal are Immigration Judges and the Board of Immigration Appeals at the administrative level, see 8 C.F.R. § 1003.6, and the Court of Appeals at the judicial level, see 8 U.S.C. § 1252(a)(5).¹ Consequently, this Court must deny this motion.

IT IS HEREBY ORDERED this 10th day of November, 2010, that Petitioner's Motion for Emergency Stay of Execution Pending Resolution and or Outcome of Court Proceedings (Doc. 83) is DENIED.

IT IS FURTHER ORDERED that the parties are allowed until November 24, 2010 to appeal this order to a district judge pursuant to Rule 72.C.2 of the Local Rules for Magistrates. Failure to timely appeal may constitute waiver of the right to appeal.

s/ Cathy Bissoon
CATHY BISSOON
UNITED STATES MAGISTRATE JUDGE

cc:
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¹ The Supreme Court of the United States also has the authority to grant stays of removal. See Niken v. Holder, 555 U.S. ____ 129 S.Ct. 1749, 1755 (2009).